

REMARKS/ARGUMENTS

Claims 1-44 are pending. Claims 33-34 have been currently amended for clarification. Claims 1, 5, 12, 16, 21, and 32-33 are independent claims.

Claim Rejections – 35 U.S.C. § 112

Claims 34-36 were rejected by the Patent Office under 35 U.S.C. § 112, second paragraph, as being indefinite since “Claim 34 recites the limitation ‘the Internet’ in line 2” (Office Action, page 1). Accordingly, Applicant has currently amended Claim 34.

Claim Rejections – 35 U.S.C. § 103

Claims 21-24, 26, 30-31 and 33-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cannon et al. (“Cannon”, U.S. Patent No. 6,104,582). Claims 1-20, 25, 27-29 and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cannon in view of Pinder (“Pinder”, U.S. Patent No. 6,112,074). Claims 42-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cannon in view of Miche (“Miche”, U.S. Patent No. 5,742,235).

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added) (MPEP § 2143). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. (emphasis added) *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Independent Claim 21 recites a limitation of “wherein the plurality of devices includes devices of different susceptibilities.” This limitation is advantageous because “[d]ue to the nature of the electronic devices, different electronic devices may have

different susceptibilities to weather characteristics. For example, a modem 216 may be susceptible to power fluctuations through an electronic connection as well as to exposure through a telephone network 224, whereas, a game console 220, connected through a receiver, may be protected due to the circuitry of the receiver from a power surge, and is not susceptible to telephone line surges, such as due to lightening strike that may disable a modem 216" (Specification, page 7, paragraph [0023]).

In rejecting Claim 21, the Patent Office first admitted that Cannon fails to "specifically mention ... the plurality of devices of different susceptibilities" (emphasis added) (Office Action, page 2, lines 13-14). Nonetheless, the Patent Office went on to allege that FIG. 4, and col. 6, lines 45-62 of Cannon teach the above-indicated limitation (Office Action, page 2, line 15 to page 3, line 2). However, nowhere in the places indicated by the Patent Office was the above-indicated limitation taught, disclosed, or suggested. Thus, Claim 21 should be allowed.

Claims 22-31, and 42-44 depend from Claim 21 and are therefore allowable due to their dependence.

Independent Claim 33 recites an element of "a weather radio for monitoring the weather" (emphasis added). In rejecting Claim 33, the Patent Office has alleged that col. 4, lines 18-33 of Cannon teaches this element. However, Cannon discloses AM radio for receiving "power-down messages" (Cannon, col. 4, lines 23-26), *not* "for monitoring the weather" as claimed in Claim 33. Thus, Claim 33 is allowable.

Claims 34-41 depend from Claim 33 and are therefore allowable due to their dependence.

Independent Claims 1, 5, 12, 16 and 32 each recite an element of "the database including an indication of susceptibility of the device to a weather characteristic" (emphasis added). In rejecting these claims, the Patent Office first admitted that Cannon fails to teach this element (Office Action, page 8, last 3 lines; page 10, lines 16-18; page 13, lines 16-19; and page 18, lines 14-16). The Patent Office then went on to allege that FIG. 1, col. 5, lines 1-6 and col. 6, lines 1-6 of Pinder teach the foregoing described

element (Office Action, page 9, lines 12-13; page 11, lines 9-10; page 14, lines 15-17; and page 19, lines 6-7). However, as admitted by the Patent Office, the database of Pinder "maps event location codes to corresponding transmitter locations as a search criteria" (Office Action, page 9, lines 12-13; page 11, lines 9-10; page 14, lines 15-17; and page 19, lines 6-7). In other words, Pinder fails to teach, suggest, or disclose "the database including an indication of susceptibility of the device to a weather characteristic," as claimed in Claims 1, 5, 12, 16 and 32. Thus, Claims 1, 5, 12, 16 and 32 should be allowed.

Claims 2-4 and 6-11 depend from Claim 1 and are therefore allowable due to their dependence. Claims 13-15 and 17- 20 depend from Claim 12 and are therefore allowable due to their dependence.

CONCLUSION

In light of the foregoing arguments and amendments, reconsideration of all pending claims is respectfully requested, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

GATEWAY, INC.,

Dated: May 11, 2004

By:

Peng Zhu
Reg. No. 48,063

SUITER • WEST PC LLO
14301 FNB Parkway, Suite 220
Omaha, NE 68154
(402) 496-0300 telephone
(402) 496-0333 facsimile